IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3782 OF 2007
IN
SUIT NO.2729 OF 2007

Dena Bank. ..Plaintiffs.

V/s.

Dr.Kirti Chaturbhai Patel & Ors...Defendants.

Mr.Ranjit Shetty for Plaintiffs.

Ms.S.Shrikrishna a/w. Arti Banarjee i/b. Little & Co. for Defendants.

CORAM: A.M.KHANWILKAR,J

DATE : OCTOBER 22, 2007.

P.C. :

1. Heard Counsel for the parties. Perused the relevant pleadings and documents on record. In my opinion, prima facie there is substance in the case made out by the Plaintiffs that the Plaintiffs exercised their option of renewal of Lease period in terms of clause 5 of the Lease Agreement, which reads thus:

> "5. Provided always and it is hereby agreed and declared that the Lessors will on the request of the Lessee made not less than on calender month before the expiration of the terms hereby created grant to the Lessee a renewal of the Lease of the demised premises for a further period of 10 years with 25% increase in rent after completion of every 5 years, i.e. increase will be due from April 2002, April, 2007 one/two the

> periods of 10 years each period from the expiration of the terms hereby granted containing the same covenants and provisions as are herein contained including the present covenant for renewal."

2. The lease was to expire on 31st March, 2007. The Plaintiffs initiated talks for renewal as early as in October, 2006. The fact that negotiations were held is reinforced from the communication sent by the Defendant to the Chief Manager of the Plaintiffs dated 28th October, 2006. Indeed, the Defendants were not inclined to accept the offer of renewal for the reasons mentioned in this letter. However, the Plaintiffs pursued with the Defendants for the renewal of Lease Deed during the meetings held in December, 2006 and January, 2007. The fact that such meetings were held, is clearly stated in the letter sent by the Plaintiffs in response to the letter received from the Defendant dated 27th April, 2007. The Plaintiffs in their letter dated 12th May, 2007 has adverted to the two meetings, wherein they had conveyed their intention to renew the lease period.

3. Taking over all view of the matter, I am inclined to accept the Plaintiffs' case, for the time being, that the Plaintiffs were keen on pursuing their right of renewal in terms of clause 5 of the

lease deed. Reasons put forth by the Defendants for non renewal whether are legitimate or not is a matter, which will be tested at the appropriate stage. For the time being, suffice it to observe that the Plaintiffs are in possession of the suit property and in terms of clause 5 of the Lease Deed, the Plaintiffs were entitled for renewal of the Lease period for a period of 10 years subject to condition specified in clause 5 of the agreement. The Plaintiffs are therefore, entitled to continue in possession till the expiry of the extended lease period, subject to such other remedy available to the Defendants to evict the Plaintiffs in accordance with the law.

4. Accordingly, the parties shall maintain status quo as of today with regard to the suit property subject to liberty to the defendants to take recourse to legal remedy for eviction of the Plaintiffs in accordance with the law. Interim relief is granted on the condition that the Plaintiffs shall pay monthly outgoings in relation to the suit property on the assumption that the lease period has been extended in terms of clause 5 of the Lease deed dated 14th June, 1999.

5. Counsel for the parties submit that Motion itself may be disposed of, in terms of the order that has been passed while considering prayer for ad-interim relief. Accordingly, Notice of Motion is disposed of on the above terms, which arrangement will operate till the disposal of the suit or the extended lease period, whichever is earlier.

(A.M.KHANWILKAR,J)